

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RHONDA P. BROWN

Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner of the
Social Security Administration,

Defendant.

CASE NO. 11-05030 RBL

REPORT AND RECOMMENDATION
ON STIPULATED MOTION TO
REMAND

This matter has been referred to Magistrate Judge J. Richard Creatura pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Magistrate Judge Rule MJR 4(a)(4), and as authorized by Mathews, Secretary of H.E.W. v. Weber, 423 U.S. 261 (1976). This matter is before the Court on the parties' stipulated motion to remand the matter to the administration for further consideration. (ECF No. 22.)

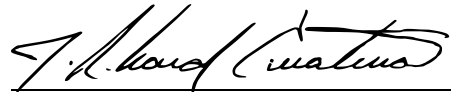
After reviewing the parties' stipulated motion and the remaining record, the undersigned recommends that the Court grant the parties' motion, and reverse and remand this matter to the Commissioner.

On remand, the administrative law judge should conduct a *de novo* hearing and issue a new decision. Specifically, the administrative law judge on remand should 1) accept any updates

1 to the record regarding Plaintiff's impairments; 2) give further consideration to medical evidence
2 opinions in light of the new evidence submitted to the Appeals Council; 3) give further
3 consideration to Plaintiff's credibility; 4) give consideration to lay witness evidence; 5) give
4 further consideration to Plaintiff's residual functional capacity; 6) discuss how and whether the
5 implied conflict of interest arising from Dr. Carla van Dam serving as the consultative examiner
6 in this claim has been resolved in light of her present and/or past performance as a medical
7 reviewer; and, 7) continue with the remaining steps of the sequential evaluation, obtaining
8 additional testimony from a vocational expert consistent with the Dictionary of Occupational
9 Titles regarding the erosion of the occupational base caused by the claimant's assessed
10 limitations; or, if inconsistent, obtain an explanation for the deviation. Additionally, the ALJ
11 should associate Plaintiff's subsequently filed claims with this claim and issue a new decision on
12 all associated claims. The parties have stipulated that plaintiff may be entitled to reasonable
13 attorney fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d),
14 following proper request to the Court.
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17 Given the facts and the parties' stipulation, the Court recommends that the District Judge
18 immediately approve this Report and Recommendation and order the case be **REVERSED** and
19 **REMANDED** pursuant to sentence four of 42 U.S.C. § 405(g). See Melkonyan v. Sullivan, 501
20 U.S. 89 (1991).
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22 DATED at this 1st day of June, 2011.

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25 J. Richard Creatura
26 United States Magistrate Judge